



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0570]

RIN 1625-AA00

Safety Zone; 520 Bridge Construction, Lake Washington, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Washington around the east span of the 520 Bridge in Seattle, Washington due to ongoing construction. The safety zone is necessary to ensure the safety of the maritime public and workers involved in the bridge construction when construction barges are located in the east span of the bridge. The safety zone will prohibit any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port or his Designated Representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through November 30, 2015. For the purposes of enforcement, actual notice will be used from October 2, 2015 until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2015-0570 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ryan Griffin, Waterways Management Division, Coast Guard Sector Puget Sound; telephone (206) 217-6051, e-mail SectorPugetSoundWWM@uscg.mil

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	Federal Register
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because of an unexpected extension of construction. With construction still in progress the safety zone needs to be extended until November 30, 2015. Due to the nature of the delay and the need to extend the safety zone immediately, it would be impracticable to issue an NPRM and solicit comment before finalizing this rule.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with the construction of the east span of the 520 Bridge.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Puget sound (COTP) has determined that potential hazards associated with bridge construction continuing on October 2, 2015 will be a safety concern for anyone within a 100-yard radius of the 520 Bridge east span construction operations. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the bridge is being repaired.

IV. Discussion of the Rule

The safety zone established in this rule encompasses all waters within 100 yards of the east span of the 520 Bridge, located on Lake Washington and is effective from October 2, 2015 through November 30, 2015 when a construction barge is present in the safety zone. Vessels wishing to enter the safety zone must request permission to do so from the Captain of the Port by contacting the Joint Harbor Operations Center at 206-217-6001 or VHF Channel 16. If permission for entry is granted, vessels must proceed at a minimum speed for safe navigation.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This rule is not a significant regulatory action as the safety zone established by it is both limited in size and duration and there is an alternative route for vessels with an air draft that permits safe passage under the west span of the bridge.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator, because the zone established in this rule is limited in size and duration and there is an alternative route for vessels with an air draft that permits safe passage under the west span of the bridge.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect

on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone lasting less than 60 days that will prohibit entry within 100 yards of the east span of the 520 bridge during times of construction operations. It is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and Record Keeping Requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T13-290 to read as follows:

§ 165.T13-290 Safety Zone; 520 Bridge, Lake Washington; Seattle, WA.

(a) Location: The following area is designated as a safety zone: all waters within 100 yards of the east span of the 520 Bridge located on Lake Washington in Seattle, Washington.

(b) Regulations: In accordance with the general regulations in 33 CFR 165, Subpart C, no person may enter the safety zone or bring or cause to be brought any vessel into the safety zone without permission of the Captain of the Port. Persons wishing to enter the safety zone must request permission from the Captain of the Port by contacting the Joint Harbor Operation Center at 206-217-6001 or VHF Channel 16. If permission for entry is granted, vessels must proceed at a

minimum speed for safe navigation.

(c) Dates: This rule is effective from October 2, 2015, through November 30, 2015, when a construction barge is present inside the safety zone.

Dated: September 30, 2015.

M.W. Raymond,

Captain, U.S. Coast Guard,

Captain of the Port Puget Sound.

[FR Doc. 2015-26754 Filed: 10/20/2015 08:45 am; Publication Date: 10/21/2015]